APPENDIX A

IN THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA

No. 14621

NORTH CENTRAL AIRLINES, INC., *Petitioner*,

v.

CIVIL AERONAUTICS BOARD, *Respondent*.

Petition for Review of Civil Aeronautics Board Orders No. E-11548 and E-11932

To the Honorable Judges of the United States Court of Appeals for the District of Columbia Circuit.

North Central Airlines, Inc. (hereinafter referred to as "North Central" or "Petitioner") petitions for review of final orders entered by the Civil Aeronautics Board (hereinafter sometimes referred to as the "Board"), and in support thereof respectfully shows:

I.

ORDERS TO BE REVIEWED

Petitioner seeks review and annulment of the Board's Orders No. E-11548 dated July 9, 1957 and No. E-11932 dated November 1, 1957, in a proceeding entitled; *North Central-Lake Central Acquisition Case*, Docket No. 5770, et al, (hereinafter sometimes referred to as the "Acquisition Case"). These orders denied the application of Petitioner for the acquisition of the majority stock interest in Lake Central Airlines, Inc. (hereinafter referred to as "Lake Central").

. . . . .

V.

GROUNDS UPON WHICH RELIEF IS SOUGHT

1. The Board's ultimate conclusion in Order No. E-11548, reaffirmed by Order No. E-11932, that the proposed acqui-

sition of Lake Central by North Central, the proposed interlocking directorates and the proposed transfer of Lake Central's certificate of public convenience and necessity would not be consistent with the public interest is (a) unsupported by necessary subsidiary findings; (b) unsupported by substantial evidence; (c) reached by norms inconsistent with those previously found determinative of mergers and acquisitions of airlines (d) reached without a consideration or rejection of Petitioner's contentions that:

(1) The cities in the Lake Central system would be provided with 44% more service if the acquisition is approved, and at a savings of nearly a half million dollars annually;

(2) North Central's forecast of 12,848 passengers in the area who would be convenienced by approval of the proposed acquisition; and

(3) The superiority of North Central's financial position enabling it to render improved and increased service over the Lake Central system, all in accordance with the public interest.

(e) arbitrary, capricious and an abuse of discretion, all contrary to the requirements of Section 10(e) of the Administrative Procedure Act, (5 USC 1009)(e) and Section 1005(e) of the Civil Aeronautics Act (49 USC 645(e)).

2. The subsidiary findings and conclusions of the Board as set forth in the Board's opinions accompanying its orders No. E-11548, dated July 9, 1956 and No. E-11932, dated November 1, 1957, do not support the ultimate conclusion. Further, these findings are: (a) unsupported by necessary subsidiary findings; (b) unsupported by substantial evidence; (c) reached by norms inconsistent with those previously found determinative of mergers and acquisitions of airlines; (d) contradictory; and (e) arbitrary, capricious

and an abuse of discretion, all contrary to the requirements of Section 10(e) of the Administrative Procedure Act (5 USC 1009) (e) and Section 1005(e) of the Civil Aeronautics Act (49 USC 645(e)).

3. In making its decision, the Board did not consider, recognize or even refute Petitioner's contentions that:

(a) The cities in the Lake Central system would be provided with 44% more service if the acquisition is approved, and at a savings of nearly a half million dollars annually;

(b) North Central's forecast of 12,848 passengers in the area who would be convenienced by approval of the proposed acquisition; and

(c) The superiority of North Central's financial position enabling it to render improved and increased service over the Lake Central system, all in accordance with the public interest.

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